



## DEPARTMENT OF HOMELAND SECURITY

[Docket No. ICEB-2020-0003]

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Homeland Security, Immigration and Customs Enforcement.

**ACTION:** Notice of a Modified System of Records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to modify and reissue a current DHS system of records titled, “Department of Homeland Security/U.S. Immigration and Customs Enforcement-004 Bond Management Information System, System of Records.” This system of records contains information related to the bond management process and supports the administrative and financial activities related to immigration bonds for U.S. Immigration and Customs Enforcement (ICE) Offices, including the Office of Financial Management and the Office of Enforcement and Removal Operations. This system of records covers records the Department collects and maintains on detained aliens in custody and on individuals involved in the processing and posting of immigration bonds.

DHS/ICE is updating this system of records to (1) expand the categories of records to include electronic communications between ICE officers and surety agents; (2) update Routine Use E and add Routine Use F to comply with Office of Management and Budget policy pertaining to data breach procedures; (3) add nine new routine uses to allow the Department of Homeland Security to share information from the system; and (4) make non-substantive edits to the routine uses to align with previously published Department of Records Notices. Additionally, this notice includes non-substantive changes to simplify

formatting and text of the previously published notice. This modified system will be included in the Department of Homeland Security's inventory of records systems.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This modified system will be effective upon publication. This modified system will be effective upon publication. New or modified routine uses will become effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by docket number ICEB-2020-0003 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Constantina Kozanas, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528-0655.

*Instructions:* All submissions received must include the agency name and docket number ICEB-2020-0003. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: Jordan Holz, Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12<sup>th</sup> Street SW, Mail Stop 5004, Washington, D.C. 20536, [ICEPrivacy@ice.dhs.gov](mailto:ICEPrivacy@ice.dhs.gov). For privacy questions, please contact: Constantina Kozanas, (202) 343-1717, [Privacy@hq.dhs.gov](mailto:Privacy@hq.dhs.gov),

Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528-0655.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

In accordance with the Privacy Act of 1974, 5 U.S.C. sec. 552a, DHS/ICE proposes to modify and reissue a current DHS system of records notice (SORN) titled, “Department of Homeland Security/U.S. Immigration and Customs Enforcement–004 Bond Management Information System.” DHS/ICE is updating the categories of records and routine uses of this system of records notice to better reflect ICE’s administration and financial management activities related to the ICE immigration bond program. The categories of records has been modified to include electronic communications between ICE officers and surety agents. The routine uses have been altered in several ways. Specifically, DHS is modifying Routine Use E and adding Routine Use F to conform to Office of Management and Budget (OMB) Memorandum M-17-12 “Preparing for and Responding to a Breach of Personally Identifiable Information,” (Jan. 3, 2017). Routine uses following Routine Use E and Routine Use F are being renumbered to account for this additional routine use. ICE is also adding Routine Uses M through U to account for information shared external to DHS, which are listed below. The following is a summary of the new routine uses and their corresponding letter:

- (M) To federal, state, local, tribal, territorial, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity in matters related to redress (e.g., determinations, identity of an individual, verify the accuracy of information submitted);

- (N) To an attorney who is acting on behalf of a prospective claimant for the purpose of negotiating settlements of an actual or prospective claim against DHS or its current or former employees;
- (O) To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements;
- (P) To appropriate federal, state, local, tribal, territorial, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, to combat significant public health threats;
- (Q) To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities or facilitating communications for personnel-related or other official purposes regarding a matter within that person's former area of responsibility;
- (R) To federal, state, local, tribal, territorial, foreign, or international agencies, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or the issuance, grant, renewal, suspension or revocation of a security clearance, license, contract, grant, or other benefit;
- (S) To federal, state, local, tribal, territorial, foreign, or international agencies, if DHS determines that failure to disclose information related to the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or

other benefit is likely to create a significant risk to the government (e.g., facilities, personnel), sensitive information, critical infrastructure, or the public safety;

- (T) To federal, state, local, tribal, territorial, or foreign government agencies, as well as to other individuals and organizations during the course of an investigation by DHS, a matter under DHS's jurisdiction, or during a proceeding within the purview of the immigration and nationality laws, when necessary to carry out DHS functions and statutory mandates; and
- (U) To the Department of State when it requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

In addition, non-substantive language changes have been made to additional routine uses to clarify disclosure policies that are standard across DHS and to align with previously published DHS SORNs. Lastly, this notice includes non-substantive changes to simply formatting and text of previously published notice.

The purpose of this system is to maintain records related to the administration and financial management operations associated with the immigration bonds that are posted for detained aliens in removal proceedings and/or as voluntary departure bonds. An immigration bond is a formal written guaranty by the obligor posted as security for the amount of the bond that assures DHS that all of the conditions of the bond will be fulfilled by the obligor as guarantor. For example, immigration bonds may be posted by surety companies that have obtained a certificate to do so from the Department of the Treasury, or by an individual's or entity's pledge (deposit) of cash or U.S. securities. If the conditions

of a bond are satisfied, the bond must be cancelled and, if a cash bond, the principal and accrued interest must be returned to the obligor. If a bond is declared breached, the cash deposited as security will be forfeited and accrued interest will be returned to the obligor.

The information and records covered by this SORN is maintained in ICE's Bond Management Information System (BMIS) Web, an immigration bond management database used by the ICE Office of Financial Management (OFM) to support the tracking and recording of bond management activities. In addition, the information stored in BMIS is used by Enforcement and Removal Operations (ERO) and surety agents to facilitate the bond management processes and provide surety agents with access to bond-related documentation. BMIS provides ICE offices with an automated mechanism for maintaining and reporting on all immigration bonds.

Consistent with DHS's information sharing mission, records covered by this SORN may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/ICE may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice. For example, BMIS information is also shared with the Internal Revenue Service to report any interest paid to obligors and for income tax purposes. Information about surety bonds may be shared with Department of Justice legal counsel; the Department of the Treasury; insurance investigators for surety companies; and legal representatives for surety companies and bonding agencies. This information is shared when ICE is pursuing further collection efforts on the surety bond receivables or if an agent of a bonding agency that

posts surety bonds is being investigated for its business practices.

Additionally, pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies in accordance with 31 U.S.C. 3711(e). This modified system will be included in DHS's inventory of record systems.

## II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides a statutory right to covered persons to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. The JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/ICE-004, Bond Management Information System (BMIS) System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

**SYSTEM NAME AND NUMBER:** The Department of Homeland Security (DHS)  
Immigration and Customs Enforcement (ICE) DHS/ICE-004 Bond Management

Information System (BMIS) System of Records.

**SECURITY CLASSIFICATION:** Unclassified.

**SYSTEM LOCATION:** Records in BMIS are maintained in electronic form at the U.S.

Immigration and Customs Enforcement Headquarters and in DHS Data Centers.

**SYSTEM MANAGER(S):** Deputy Division Chief of Financial Systems, ICE Office of Financial Management, 1201 Maryland Avenue SW, Washington, D.C. 20024  
[OFMFINSYS@ice.dhs.gov](mailto:OFMFINSYS@ice.dhs.gov).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** Sections 103, 212(g), 213, 214, 236, 240B, 241(c)(2)(C)(i), 286, and 293 of the Immigration and Nationality Act of 1982, as amended (8 U.S.C. 1103, 1182(g), 1183, 1184, 1226, 1229c, 1231(c)(2)(C)(i), 1356(r), and 1363, respectively).

**PURPOSE(S) OF THE SYSTEM:** The purpose of this system is to maintain records related to the administration and financial management operations of ICE's immigration bond program. Immigration bond administration includes the maintenance, cancellation, and revocation of bonds. Financial management operations include collection, reimbursement, or forfeiture of the bond principal; calculation, payment, and reporting of interest income; calculation, withholding, and reporting of income taxes; and the collection or filing of associated income tax forms.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** Categories of individuals covered by this system include: individuals who post cash immigration bonds for aliens (known as obligors); individuals for whom an immigration bond is posted (known as bonded individuals); family members (bond requesters); individuals who arrange for the posting of surety bonds for aliens (known as indemnitors); the surety



company and individual surety bond agents who post surety bonds; and notaries public and attorneys in fact.

**CATEGORIES OF RECORDS IN THE SYSTEM:** Categories of records in this system include, for example:

For the Obligor: name; Social Security number (SSN)/Tax Identification Number (TIN); address; phone number; U.S. citizenship or immigration status; and government-issued identification (type and number) shown at the time the bond is posted; and income tax-related information, such as taxpayer status, rate of withholding, income taxes withheld, income reporting (interest paid), tax treaty status, foreign tax identification number, country of residence, and information collected or reported on various income tax forms, such as IRS Forms W-9, W-8BEN, 945, 1042, 1042-S, and 1099-INT.

For the Bonded Individual: name; alien number; location (while in detention); address(es) and phone number of residence upon release; date and country of birth; nationality; and date and port of arrival;

For the Indemnitor: name; address(es); and phone number.

For the Surety Bonding Agent: name; Tax Identification Number; address(es); and phone number.

For notary public and attorneys in fact: name and phone number.

General bond information, that is associated with one of the types of individuals listed above, including: bond number; bond amount; securities pledged; bond types; bond status; location and date of posted bond; dates for bond-related activities, such as declaration of breach; names and titles of Department of Homeland Security (DHS) officials that approve, cancel, or declare breaches of bonds; communications between ICE

and the surety agents, such as information related to the administration, issuance, breach termination, or cancellation of a bond; dates, forms, and status and outcome concerning motions to reconsider a breach or cancellation of bonds; and dates, forms, and status and outcome concerning bond-related appeals.

**RECORD SOURCE CATEGORIES:** Records are obtained from categories of individuals listed and described above.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:** In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another Federal agency or Federal entity when DHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation

or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

I. To the Department of the Treasury and its bureaus to carry out financial transactions and any debt- or tax-related reporting, withholding, collection, and/or processing activities required or permitted by federal law, regulation or policy.

J. To the Department of Justice, the Department of the Treasury, other appropriate federal agencies, state insurance regulators, credit bureaus, debt collection agencies, legal representatives for surety companies and bonding agencies, and insurance investigators to provide information relevant to (1) investigations of an agent or bonding agency that posts surety bonds, or (2) activities related to collection of unpaid monies owed to the U.S. Government on immigration bonds.

K. To agencies, individuals, or entities as necessary to locate individuals who are owed money or property connected with the issuance of an immigration bond.

L. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien to aid the individual or entity in (1) identifying the location of the alien, or (2) posting the bond, obtaining payments related to

the bond, or conducting other administrative or financial management activities related to the bond.

M. To federal, state, local, tribal, territorial, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity: (1) to assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program; (2) to verify the identity of an individual seeking redress in connection with the operations of a DHS component or program; or (3) to verify the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

N. To an attorney who is acting on behalf of a prospective claimant for the purpose of negotiating the settlement of an actual or prospective claim against DHS or its current or former employees, in advance of the initiation of formal litigation or proceedings.

O. To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

P. To appropriate federal, state, local, tribal, territorial, or foreign governmental agencies or multilateral governmental organizations for the purpose of protecting the vital interests of a data subject or other persons, including to assist such agencies or organizations in preventing exposure to or transmission of a communicable or quarantinable disease or to combat other significant public health threats.

Q. To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant

and necessary for personnel-related or other official purposes when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

R. To federal, state, local, tribal, territorial, foreign, or international agencies, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or the issuance, grant, renewal, suspension or revocation of a security clearance, license, contract, grant, or other benefit

S. To federal, state, local, tribal, territorial, foreign, or international agencies, if DHS determines (1) the information is relevant and necessary to the agency's decision concerning the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit, and (2) failure to disclose the information is likely to create a significant risk to government facilities, equipment, or personnel; sensitive information; critical infrastructure; or the public safety.

T. To federal, state, local, tribal, territorial, or foreign government agencies, as well as to other individuals and organizations during the course of an investigation by DHS or the processing of a matter under DHS's jurisdiction, or during a proceeding within the purview of the immigration and nationality laws, when DHS deems that such disclosure is necessary to carry out its functions and statutory mandates or to elicit information required by DHS to carry out its functions and statutory mandates.

U. To the Department of State when it requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

V. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** DHS/ICE stores records in this system electronically in a central database or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, and digital media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** DHS/ICE retrieves by any of the following: bond number, SSN or TIN, name, Alien Number, obligor name, surety company name, or location and date bond was posted.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** In accordance with the Bond Management Information System (BMIS Web) schedule N1-567-10-11, ICE maintains records for six years and three months after the bond is closed, cancelled or breached and the collateral is returned to the obligor (when applicable). Copies of forms completed as part of the immigration bonds process (e.g., Form I-352 (Immigration Bond) or Form I-395 (Affidavit In Lieu of Lost Receipt of United States ICE For Collateral Accepted As Security)) are placed into the bonded individual's A-File and maintained for the life of that file until transferred to the National Archives (100 years from the date of the alien's birthdate) in accordance with N1-566-08-11.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** DHS/ICE safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/ICE has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access electronic records.

**RECORD ACCESS PROCEDURES:** Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer and ICE's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contact Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, D.C. 20528-0655. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about a person may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the



individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition, the individual should:

- Explain why he or she believes the Department would have the information being requested;
- Identify which component(s) of the Department he or she believes may have the information;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.

If the request is seeking records pertaining to another living individual, the request must include an authorization from the individual whose record is being requested, authorizing the release to the requestor

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

**CONTESTING RECORD PROCEDURES:** For records covered by the Privacy Act or covered JRA records, individuals may make a request for amendment or correction of a record of the Department about the individual by writing directly to the Department component that maintains the record, unless the record is not subject to amendment or correction. The request should identify each particular record in question, state the

amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. If the individual believes that the same record is in more than one system of records, the request should so state and be addressed to each component that maintains a system of records containing the record.

Individuals who wish to contest the accuracy of records in this system of records should submit these requests to the Privacy Division of the ICE Information Governance & Privacy Office. Requests must comply with verification of identity requirements set forth in Department of Homeland Security Privacy Act regulations at 6 CFR 5.21(d). Please specify the nature of the complaint and provide any supporting documentation. By mail (please note substantial delivery delays exist): ICE Information Governance & Privacy Office, ATTN: Privacy Division, 500 12th Street SW, Mail Stop 5004, Washington, D.C. 20536. By email: [ICEPrivacy@ice.dhs.gov](mailto:ICEPrivacy@ice.dhs.gov).

Please contact the Privacy Division with any questions about submitting a request at [ICEPrivacy@ice.dhs.gov](mailto:ICEPrivacy@ice.dhs.gov).

**NOTIFICATION PROCEDURES:** See “Record Access Procedures” above.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** None.

**HISTORY:** DHS/ICE-004 Bonds Management Information System (BMIS) System of Records, 76 FR 8761 (February 15, 2011).

Constantina Kozanas,

Chief Privacy Officer,

Department of Homeland Security.

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